

RECEIVED
SDNY DOCKET UNIT
2018 MAY 22 PM 9:00

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LEIBYS MERCEDES

18CV4523

Write the full name of each plaintiff.

(Include case number if one has been assigned)

-against-

COMPLAINT
(Prisoner)

Do you want a jury trial?
☒ Yes ☐ No

CITY OF NEW YORK; BOROUGHS OF THE BRONX;
NYPD OFFICER JULIO ARIAS, NYPD
SGT. OMAR PERES, CARMEN TORRES,
PATRICK CURRAN, FERDINAND RIVERA, JUSTIN
DELMONICO, BRENDAN GALLAGHER, Jane and
John DOES; inclusive, all in both their
official and individual capacities, ALL
UNKNOWN ENTITIES, Jointly and Severally
defendants.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☒ Other: POLICE HARASSMENT; conspiracy; Fraud, Intentional Infliction of Emotional Distress, false arrest, assault and battery, Kidnapping, Failure to properly hire, train Supervise.

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

Leibys Mercedes
First Name Middle Initial Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

250170

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Westchester County Jail
Current Place of Detention

10 Woods Road / P.O. Box 10
Institutional Address

Valhalla New York 10595
County, City State Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

- ☒ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☐ Convicted and sentenced prisoner
☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

CITY OF NEW YORK
 First Name Last Name Shield #
Corporation (PERSON)
 Current Job Title (or other identifying information)
141 Worth Street
 Current Work Address
New York New York 10013
 County, City State Zip Code

Defendant 2:

BOURGOUGH OF THE BRONX
 First Name Last Name Shield #
a corporation (PERSON)
 Current Job Title (or other identifying information)
851 Grand Concourse, 3rd Floor
 Current Work Address
Bronx New York 10451
 County, City State Zip Code

Defendant 3:

JULIO ARIAS
 First Name Last Name Shield #
Police Officer (Person) NYPD 43rd Precinct
 Current Job Title (or other identifying information)
900 Fteley Avenue
 Current Work Address
Bronx New York 10473
 County, City State Zip Code

Defendant 4:

OMAR PEREZ
 First Name Last Name Shield #
Police Officer (PERSON) NYPD Sgt. 43rd Precinct
 Current Job Title (or other identifying information)
900 Fteley Avenue
 Current Work Address
Bronx New York 10473
 County, City State Zip Code

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1:

CARMEN TORRES
 First Name Last Name Shield #
NYPD Police Officer (PERSON)
 Current Job Title (or other identifying information)
900 Fteley Avenue
 Current Work Address
Bronx New York 10473
 County, City State Zip Code

Defendant 2:

PATRICK CURRAN
 First Name Last Name Shield #
NYPD Police Officer (PERSON)
 Current Job Title (or other identifying information)
900 Fteley Avenue
 Current Work Address
Bronx New York 10473
 County, City State Zip Code

Defendant 3:

FERDINAND RIVER
 First Name Last Name Shield #
NYPD Police Officer (PERSON)
 Current Job Title (or other identifying information)
900 Fteley Avenue
 Current Work Address
New York New York 10473
 County, City State Zip Code

Defendant 4:

JUSTIN DELMONICO
 First Name Last Name Shield #
NYPD Police Officer (PERSON)
 Current Job Title (or other identifying information)
900 Fteley Avenue
 Current Work Address
New York New York 10473
 County, City State Zip Code

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1: BRENDAN GALLAGER 1
 First Name Last Name Shield #
NYPD Police Officer (PERSON)
 Current Job Title (or other identifying information)
900 Fteley Avenue
 Current Work Address
Bronx New York 10473
 County, City State Zip Code

Defendant 2: John and Jane DOE(S) 1-5
 First Name Last Name Shield #
NYPD Police Officers (PERSONS)
 Current Job Title (or other identifying information)
900 Fteley Avenue
 Current Work Address
Bronx New York 10473
 County, City State Zip Code

Defendant 3: ALL UNKNOWN ENTITIES
 First Name Last Name Shield #
(PERSONS) INSURERS, BOND COMPANIES, et al.
 Current Job Title (or other identifying information)
141 Worth Street
 Current Work Address
New York New York 10013
 County, City State Zip Code

Defendant 4:
 First Name Last Name Shield #
 Current Job Title (or other identifying information)
 Current Work Address
 County, City State Zip Code

V. STATEMENT OF CLAIM

Place(s) of occurrence: New York City, Bronx County, New York state

Date(s) of occurrence: March 1, 2017 ongoing until present

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

On March 1, 2017 at approximately 9:40 PM I departed my house to get something to eat at Jimmy's Grand Cafe. Upon leaving I was followed by a gray Ford Taurus. This turned out to be an unmarked police car and they soon pulled me over. (Police reports claim my name and description of a BMW were given by the so-called anonymous source). Bronx Police Officers approached my car and one pulled my door open and pulled me out, hence I was seized under the Fourth Amendment and not free to leave. Another officer jumped in my car and drove it off. The said it had tinted windows and the officer that hauled me out of the car claimed I smelled like alcohol. I was not given any ticket and I resent my car being stolen and/or even driven by any policemen. It was all totally in excess of reasonable standards. I was never free to leave and was seized pursuant the New York state Constitution Article I § 12 and the Fourth Amendment to the Bill of Rights of the Constitution for the United States of America (1786).

The police searched my car without permission, and found a 9 m/m pistol I had hidden in the car for self-

protection. (I have had threats to my life - the Bronx is very unsafe).

I was then put in the back of a Ford and taken to the 43rd precinct. The BPD officers claim cause for stop was my cars tinted windows, a totally bogus claim as the windows were legal (it was also 9:40pm and dark outside). I was not told I was cited nor did I ever sign any such falsely founded ticket, the result of police misconduct and violations of my Civil rights. I was unlawfully profiled under the law, including, but not not limited to, the Safe Streets Act of 1964.

Police these days invent probable cause. No so-called phone tip exists in my discovery I was given. Not a transcript, nor a tape just a police fairy tale.

I was charged with possession of a firearm and sit in jail where a fair trial is a myth, not a right.

I do not see where Bronx County has properly hired, trained or supervised its police. They lack knowledge of the Constitutions (state or federal) nor any other laws that were put in place to protect people from over zealous police officers. The police were at all times under the color of state, federal and U.N. Treaty law. These actors deliberately violated and carelessly disregarded my rights. Their actions were willful, wanton and by design. They follow the concept of "the end justifies the means." What the Bronx County Police need to do is follow due process of law under the law, the law of the land. If the police do not follow the law, no one will respect them, or the government(s) for the law is a double edged sword cutting both ways, and no police are above the law.

MOTION FOR SUMMARY JUDGMENT:

Plaintiff executes this instrument below under 28 U.S.C. § 1746(1), and moves for summary judgment. The foregoing and following material facts are not in dispute and Plaintiff is entitled to judgment as a matter of law. This instrument is executed under [28 U.S.C. § 1746(1)]. Pursuant well settled law Plaintiff's facts alone are enough for the court to award compensatory damages for pain and suffering. [See: Chalmers v. City of Los Angeles, 762 F.2d 753, 761 (9th Cir. 1985)].

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received. The unlawful seizure and false arrest

unlawfully deprived me of liberty against my unalienable rights, bringing me badly pain, discomfort, inconvenience, loss of time, mental suffering, distress, duress, anguish, shame, loss of job, loss of enjoyment of life, loss of personal property, violation of constitutional (both state + federal), fear for my life, mental suffering, fright, grief, lack of care + negligence, defamation.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

Compensatory Damages of Five Million Dollars (\$5,000,000-) (U.S.D.); Under standard set in [Trezevant v. City of Tampa, 741 F.3d 336 (11th Cir. 1984)], of eleven hundred (\$1,100-) (U.S.D.) per minute; Both General, and Special Damages in amounts by proof at trial; Restitution as allowed by law; Punitive Damages of Ten Million Dollars (\$10,000,000-) (U.S.D.); For attorneys fees and cost of action, including under the "private attorney general doctrine"; For all court costs, including bond(s), GPS, securitization, investigation, U.S.M. costs; For Qui Tam Action fees to pay on national debt pursuant 31 U.S.C. § 3113, and any taxes owed on funds paid here from per 26 U.S.C. § 165 et seq.; thank you.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

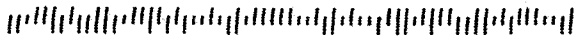
<u>May 15, 2018</u>		<u><i>Leibys Mercedes</i></u>
Dated		Plaintiff's Signature [28 U.S.C. § 1746 (i)]
<u>Leibys</u>		<u>Mercedes</u>
First Name	Middle Initial	Last Name
<u>10 Woods Road / P.O. Box 10</u>		
Prison Address		
<u>Valhalla</u>	<u>New York</u>	<u>10595</u>
County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: 5-16-2018



THIS ENVELOPE IS RECYCLABLE AND MADE WITH 30% POST CONSUMER CONTENT

© USPS 2016



10007-133099

Clerk, United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York [10007]

USM
STNY
P3

CLERK'S OFFICE

20 MAY 21 PM 4:05

RECEIVED
Legal Mail

Page 34

Leibys Mercedes [250170]
%P.O. Box 10
Valhalla, New York [10595]

Barn Swallow

FOREVER

POSTMASTER: NO POSTAGE